

REMARKS/ARGUMENTS

Claims 1-46 are pending in the present application. The Examiner has rejected claims 1-10, 17, 23-25, 30, 31, 33, 35-40, and 42-45. The Examiner has objected to claims 11-16, 18-22, 26-29, 32, 34, 41 and 46. Applicant respectfully requests reconsideration of pending claims 1-46.

The Examiner has rejected claims 1-10, 17, 23-25, 30, 31, 35-40, and 42-45 under 35 U.S.C. § 102(e) as being anticipated by Srinivasan et al. (U.S. Patent No. 6,304,549). Applicant respectfully disagrees.

Regarding claim 1, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 1. For example, Applicant submits the cited portion of the cited reference fails to disclose "establishing the connection in the data communication network, wherein the connection is managed by a control plane." While the Examiner cites "(Column 7 Line 32-41)" as allegedly disclosing such feature, Applicant can find no mention of "...wherein the connection is managed by a control plane" in the cited portion of the cited reference.

As another example, Applicant submits the cited portion of the cited reference fails to disclose "when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection." While the Examiner cites "(Column 17 Line 22-25)" as allegedly disclosing such feature, Applicant can find no mention of "...initiating control plane rerouting of the connection" in the cited portion of the cited reference. Thus, Applicant submits claim 1 is in condition for allowance.

Regarding claim 2, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 2. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the selected characteristic includes continuity on the connection." While the Examiner cites "(Column 17 Line 1-4)" as allegedly disclosing such feature, Applicant submits the teachings of such cited portion, even when combined with "(Column 17 Line 22-25)," as cited with respect to claim 1, do not appear to disclose "when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection," "wherein the selected characteristic includes continuity on the connection." Thus, Applicant submits claim 2 is in condition for allowance.

Regarding claim 3, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 3. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the selected characteristic includes at least one of: data corruption on the connection, data loss on the connection, latency along the connection, and misinsertion of data on the connection." While the Examiner cites "(Column 2 Line 57-61)" as allegedly disclosing such feature, Applicant submits the teachings of such cited portion, even when combined with "(Column 17 Line 22-25)," as cited with respect to claim 1, do not appear to disclose "when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection," "wherein the selected characteristic includes at least one of: data corruption on the connection, data loss on the connection, latency along the connection, and misinsertion of data on the connection." Thus, Applicant submits claim 3 is in condition for allowance.

Regarding claim 4, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 4. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the data communication network supports asynchronous transfer mode (ATM) protocol." While the Examiner cites "(Column 5 Line 2-8)," Applicant notes the cited portion refers to "...the ATM Forum's PNNI routing protocol..." and "...The ATM Forum, *Private Network-Network Specification Interface* vl. 0. Mar. 1996...." Applicant submits "The ATM Forum" refers to an industry consortium, while PNNI refers to a protocol. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 4. Thus, Applicant submits claim 4 is in condition for allowance.

Regarding claim 5, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 5. For example, Applicant submits the cited portion of the cited reference fails to state "wherein the control plane is a signaling plane." Thus, Applicant submits claim 5 is in condition for allowance.

Regarding claim 6, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 6. For example, Applicant has presented reasons for the allowability of claims from which claim 6 depends. Thus, Applicant submits claim 6 is also in condition for allowance.

Regarding claim 7, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 7. For example, Applicant submits the Examiner cites only a single line of the cited reference, namely "(Column 2 Line 32)," arguably taking the cited portion out of context. When placed in context, by reading the entire paragraph in which the cited portion occurs, Applicant submits the cited reference teaches away from such a technique, describing it with words like "drawback," "excessive and unacceptable," "requires additional software," and "overloaded." Applicant submits Srinivasan et al. do not disclose combining features of such a negatively described technique with the portions of the "DETAILED DESCRIPTION OF THE INVENTION" section of the cited reference cited by the Examiner with respect to claims from which claim 7 depends. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 7. Thus, Applicant submits claim 7 is in condition for allowance.

Regarding claim 8, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 8. For example, Applicant has presented reasons for the allowability of claims from which claim 8 depends. Thus, Applicant submits claim 8 is also in condition for allowance.

Regarding claim 9, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 9. For example, Applicant has presented reasons for the allowability of claims from which claim 9 depends. Thus, Applicant submits claim 9 is also in condition for allowance.

Regarding claim 10, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 10. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the user connection monitoring function includes OAM continuity checking." While the Examiner cites "(Column 16 Line 58-66)," Applicant cannot find reference to "...OAM continuity checking" in the cited portion of the cited reference. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 10. Thus, Applicant submits claim 10 is in condition for allowance.

Regarding claim 17, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 17. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein initiating control plane rerouting of the connection further comprises initiating a soft reroute." While the Examiner cites "(Column 17 Line 22-25)," Applicant

can find no teaching of "...a soft reroute" in the cited portion of the cited reference. Thus, Applicant submits claim 17 is in condition for allowance.

Regarding claim 23, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 23. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the source node injects diagnostic traffic into the data stream, wherein the destination node monitors the diagnostic traffic in the data stream." While the Examiner cites "(End Host A in Figure 1)," "(End Host B in Figure 1)," and "(Column 16 Line 58-62)," Applicant can find no teaching in the cited portions of the cited reference that "...the source node injects diagnostic traffic into the data stream" or "the destination node monitors the diagnostic traffic in the data stream."

As another example, Applicant submits the cited portions of the cited reference fail to disclose "a control block operably coupled to the source node and the destination node..." in the cited portion of the cited reference. While the Examiner alleges element 50 teaches a "control block," Applicant notes element 50 is a "connection server," which is depicted in Figure 3 of the cited reference. Applicant does not see element 50 in Figure 1 of the cited reference, where "End Host A" and "End Host B," as cited by the Examiner, are found, nor does Applicant see "End Host A" and "End Host B" in Figure 3 of the cited reference. Thus, Applicant submits the cited portions of the cited reference fail to disclose "a control block operably coupled to the source node and the destination node...."

As yet another example, Applicant submits the cited portions of the cited reference fail to disclose "...wherein when status of a selected characteristic associated with the diagnostic traffic is determined to be unacceptable, the control block performs a control plane reroute that establishes a second connection that couples the source node and the destination node." While the Examiner cites "(Column 17 Line 22-25)," Applicant submits the cited portion of the cited reference fails to disclose such a feature. For example, as Applicant has argued the Examiner has not shown the cited portions of the cited reference to disclose "a control block operably coupled to the source node and the destination node....," Applicant submits the cited portion of the cited reference does not disclose "...wherein when status of a selected characteristic associated with the diagnostic traffic is determined to be unacceptable, the control block performs...."

Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 23. Thus, Applicant submits claim 23 is in condition for allowance.

Regarding claim 24, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 24. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the data stream includes a plurality of asynchronous transfer mode (ATM) cells." While the Examiner cites "(Column 5 Line 2-8)," Applicant notes the cited portion refers to "...the ATM Forum's PNNI routing protocol..." and "...The ATM Forum, *Private Network-Network Specification Interface* vl. 0. Mar. 1996...." Applicant submits "The ATM Forum" refers to an industry consortium, while PNNI refers to a protocol. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 24. Thus, Applicant submits claim 24 is in condition for allowance.

Regarding claim 25, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 25. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the diagnostic traffic includes operation and management (OAM) continuity checking cells." While the Examiner cites "(Column 16 Line 58-66)," Applicant cannot find reference to "...operation and management (OAM) continuity checking cells" in the cited portion of the cited reference. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 25. Thus, Applicant submits claim 25 is in condition for allowance.

Regarding claim 30, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 30. For example, Applicant submits the Examiner cites only a single line of the cited reference, namely "(Column 2 Line 32)," arguably taking the cited portion out of context. When placed in context, by reading the entire paragraph in which the cited portion occurs, Applicant submits the cited reference teaches away from such a technique, describing it with words like "drawback," "excessive and unacceptable," "requires additional software," and "overloaded." Applicant submits Srinivasan et al. do not disclose combining features of such a negatively described technique with the portions of the "DETAILED DESCRIPTION OF THE INVENTION" section of the cited reference cited by the Examiner with respect to claims from which claim 30 depends. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 30. Thus, Applicant submits claim 30 is in condition for allowance.

Regarding claim 31, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 31. For example, Applicant has presented reasons for the allowability of claims from which claim 31 depends. Thus, Applicant submits claim 31 is also in condition for allowance.

Regarding claim 33, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 33. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the control block establishes the second connection as a part of a soft reroute." While the Examiner cites "(Column 17 Line 22-25)," Applicant can find no teaching of "a soft reroute" in the cited portion of the cited reference. Thus, Applicant submits claim 33 is in condition for allowance.

Regarding claim 35, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 3. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the selected characteristic includes at least one of: data corruption on the first connection, data loss on the first connection, latency along the first connection, and misinsertion of data on the first connection." While the Examiner cites "(Column 2 Line 57-61)" as allegedly disclosing such feature, Applicant submits the teachings of such cited portion, even when combined with "(Column 17 Line 22-25)," as cited with respect to claim 23, do not appear to disclose "wherein when status of a selected characteristic associated with the diagnostic traffic is determined to be unacceptable, the control block performs a control plane reroute that establishes a second connection that couples the source node and the destination node," "wherein the selected characteristic includes at least one of: data corruption on the first connection, data loss on the first connection, latency along the first connection, and misinsertion of data on the first connection." Thus, Applicant submits claim 35 is in condition for allowance.

Regarding claim 36, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 36. For example, Applicant submits the Examiner cites only a single line of the cited reference, namely "(Column 2 Line 32)," as allegedly teaching "establishing the soft permanent virtual connection (SPVC) in the ATM data communication network," arguably taking the cited portion out of context. When placed in context, by reading the entire paragraph in which the cited portion occurs, Applicant submits the cited reference teaches away from such a technique, describing it with words like "drawback," "excessive and unacceptable," "requires additional software," and "overloaded." Applicant submits Srinivasan et al. do not disclose combining features of

such a negatively described technique with the portions of the "DETAILED DESCRIPTION OF THE INVENTION" section of the cited reference cited by the Examiner with respect to claims from which claim 30 depends. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 30.

As another example, while the Examiner cites "105, 200 (Column 7 Line 32-41)" as allegedly disclosing "wherein the connection is managed by a control plane," Applicant does not see "wherein the connection is managed by a control plane" in the cited portion of the cited reference. As yet another example, Applicant submits the cited portion of the cited reference fails to disclose "when status of the at least one characteristic is determined to be unacceptable, initiating control plane rerouting of the connection." While the Examiner cites "(Column 17 Line 22-25)" as allegedly disclosing such feature, Applicant can find no mention of "...initiating control plane rerouting of the connection" in the cited portion of the cited reference. Thus, Applicant submits claim 36 is in condition for allowance.

Regarding claim 37, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 37. For example, Applicant submits the Examiner cites only a single line of the cited reference, namely "(Column 2 Line 32)," arguably taking the cited portion out of context. When placed in context, by reading the entire paragraph in which the cited portion occurs, Applicant submits the cited reference teaches away from such a technique, describing it with words like "drawback," "excessive and unacceptable," "requires additional software," and "overloaded." Applicant submits Srinivasan et al. do not disclose combining features of such a negatively described technique with the portions of the "DETAILED DESCRIPTION OF THE INVENTION" section of the cited reference cited by the Examiner with respect to the claim from which claim 37 depends. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 37. Thus, Applicant submits claim 37 is in condition for allowance.

Regarding claim 38, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 38. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein the connection is switched virtual connection (SVC)." While the Examiner cites "(Column 7 Line 61-65)," Applicant notes the cited portion of the cited reference merely states, "Since one of the functions performed by the connection servers is to receive UNI signaling messages requesting switch virtual connection (SVC) setup and determine routes within its PG to set up SVCs...." Applicant cannot find teaching within the cited portion of the cited reference

of such "function" "using operation and management (OAM) cells to monitor at least one characteristic of the connection" or "when status of the at least one characteristic is determined to be unacceptable, initiating control plane rerouting of the connection," as recited in claim 36, from which claim 38 depends. Thus, Applicant submits claim 38 is in condition for allowance.

Regarding claim 39, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 39. For example, Applicant submits the cited portion of the cited reference fails to state "wherein the control plane is a signaling plane." Thus, Applicant submits claim 39 is in condition for allowance.

Regarding claim 40, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 40. For example, Applicant has presented reasons for the allowability of claims from which claim 40 depends. Thus, Applicant submits claim 40 is also in condition for allowance.

Regarding claim 42, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 42. For example, Applicant submits the cited portion of the cited reference fails to disclose "detecting a fault in the connection in the user plane." While the Examiner cites element 315 as allegedly disclosing such feature, Applicant can find no reference to "...in the user plane" with respect to element 315 either in Figure 3 or column 7, lines 50-54, of the cited reference.

As another example, Applicant submits the cited portion of the cited reference fails to disclose "triggering a reroute of the connection in the control plane based on the fault detected." While the Examiner cites "(Column 17 Line 22-25)" as allegedly disclosing such feature, Applicant can find no mention of "triggering a reroute of the connection in the control plane based on the fault detected" in the cited portion of the cited reference. Thus, Applicant submits claim 42 is in condition for allowance.

Regarding claim 43, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 43. For example, Applicant submits the cited portion of the cited reference fails to disclose "wherein detecting a fault further comprises detecting a fault using operation and management (OAM) services running within the user plane." While the Examiner cites "(Column 16 Line 58-62)" as allegedly disclosing such feature, Applicant can find no reference to "...detecting a

fault using operation and management (OAM) services running within the user plane" in the cited portion of the cited reference. Thus, Applicant submits claim 43 is in condition for allowance.

Regarding claim 44, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 44. For example, Applicant submits the Examiner cites only a single line of the cited reference, namely "(Column 2 Line 32)," arguably taking the cited portion out of context. When placed in context, by reading the entire paragraph in which the cited portion occurs, Applicant submits the cited reference teaches away from such a technique, describing it with words like "drawback," "excessive and unacceptable," "requires additional software," and "overloaded." Applicant submits Srinivasan et al. do not disclose combining features of such a negatively described technique with the portions of the "DETAILED DESCRIPTION OF THE INVENTION" section of the cited reference cited by the Examiner with respect to the claims from which claim 44 depends. Thus, Applicant submits the Examiner has not shown the cited portion of the cited reference to disclose the subject matter recited in claim 44. Thus, Applicant submits claim 44 is in condition for allowance.

Regarding claim 45, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter recited in claim 45. For example, Applicant submits the cited portion of the cited reference fails to disclose "...wherein triggering a reroute further comprises triggering a soft reroute." While the Examiner cites "(Column 17 Line 22-25)," Applicant can find no teaching of "...a soft reroute" in the cited portion of the cited reference. Thus, Applicant submits claim 45 is in condition for allowance.

The Examiner has objected to claims 11-16, 18-22, 26-29, 32, 34, 41, and 46 as being dependent upon a rejected base claim, but states they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has presented arguments for the allowability of the base claims and any intervening claims. Thus, Applicant submits the objected claims are also in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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Date

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